



Investment – Real Estate

The term includes real property of all kinds, including farms, timberland, mines, residences, factories, and commercial buildings. A trustee is responsible for the administration of every type of real property held in trust. The proper management of real estate demands the knowledge and skill to ensure the property is an appropriate asset for purchase and/or retention and is, to the extent practical, productive of income.

Title Insurance

When acquiring real estate, management should determine the condition of the title to the property as soon as reasonably possible. The best time to remedy any title defects is when the property is being acquired. If a defect in title exists at the time of a proposed sale, the delay or expense necessary to remedy it might defeat the transaction.

There are two basic methods to ensure that title to property is satisfactory:

- The trustee may have the title abstracted by an attorney, who issues a certificate that the title is good and indefeasible, except for any defects he/she might specify.
- The trustee also may have the title guaranteed by title insurance.

Appraisals and Annual Inspections

The trustee must have a program of appraisal and inspection of all real estate held in accounts where the trust has investment responsibility. Per industry best practices, the appraisal program should require appraisals at least every three years for real properties held in personal trust accounts.

A routine annual inspection provides the trustee with current knowledge of the condition of the real properties, so that informed investment decisions can be made regarding their retention and/or disposition. The inspection should be thorough enough to assure that the fiduciary is fully knowledgeable about the present condition and status of properties.

The trustee should exercise discretion in appraising and inspecting some properties. Fractional interests in real estate where the trustee has no effective control and homes or other properties occupied by beneficiaries may not often warrant appraisals and inspections.

In light of guidelines pertaining to real estate appraisals stated above, State trust examiners use discretion depending on a host of circumstances, including the size and type of real estate in question. Regardless, it is consistent among examiners that appraisals need to be updated every four or five years, at a minimum. In markets where real estate values are changing, updated appraisals will be required more frequently. An important consideration is that a proper value is established for insurance purposes.

It is to the best interest of the trustee to acquire grantor/beneficiary approval before waiving appraisals and inspections. However, the effectiveness of grantor/beneficiary waivers of inspections and appraisals can be disputed and management should be aware of the constant responsibility to properly administer real estate. Management should not as matters of policy rely solely on grantor/beneficiary waivers of inspections and/or appraisals, particularly in instances where there are abnormal fluctuations in property value or the condition of the property requires attention.